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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,291	02/13/2004	William George Wilhelm	NEXTEK-BALLAST-CON	7429
4988	7590	11/18/2004	EXAMINER	
ALFRED M. WALKER 225 OLD COUNTRY ROAD MELVILLE, NY 11747-2712			PHIOGENE, HAISSA	
			ART UNIT	PAPER NUMBER
			2828	
DATE MAILED: 11/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	Application No. 10/779,291	Applicant(s) WILHELM, WILLIAM GEORGE	
	Examiner Haissa Philogene	Art Unit 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

Claims 15-17, 28, 36 and 37 are objected to because of the following informalities: In claim 15, line 8, change "said" before "remote switch" to --a--; in line 12, change "said" before "resistor" to --a--; in line 19, change "said" before "power supply return" to --a--; in line 21, change "said" before "self-excited power oscillation inverter" to --a--; in line 22, delete "said" after "servicing". In claim 16, change "the" before "blinking function" to --a--. In claim 17, change "on/off" to --switch--. In claim 36, line 11, delete "said" before "proportional pulses"; in line 13, change "said" before "constant current driver" to --a--; in line 18, change "the" before "periodic" to --a--. In claim 28, line 4 and claim 33, lines 3, 4 and 11, delete "module" to be consistent with independent claim 22. In claim 37, line 6, change "said" to --a--; in line 8, delete "said" before "proportional pulses"; in line 11, change "said" before "constant current driver" to --a--; in line 15, change "the" before "periodic" to --a--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10, 16-21 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, line 5 and 13-14, the recited terms "a remote switch function" and "an external switch function" are confusing. Is applicant talking about two different

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switch functions? It appears that they represent the same switching function. If so, change "an external switching function" to --said remote switch function--or both "a remote switch function" and "an external switching function" to --an external remote switching function--. Applicant is required to clarify this matter.

~~Claims 2-10, 16-21 and 36 are rejected by virtue of their dependencies on the~~  
independent claim 1.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-35 of U.S. Patent No. 6,693,395. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims recite the same subject matter except that claims 1-37 of the instant application recite an on/off switching while claims 1-35 of '395 recite one of on/off switching and dimming. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ

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either on/off switching or dimming using a remote control unit in a remote control system for a lamp ballast since it was known in the art the remote control unit can be used to provide control signals to electronic ballasts used in lighting system for the purpose of reducing energy consumption.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sammis, Patent No. 4,149,113; Ball et al., Patent No. 5,111,115; Bedard, Patent No. 4,484,190; Knoble et al., Patent No. 5,815,067; Merwin et al., Patent No. 5,867,017; Storey, Patent No. 6,011,682; Lansing et al., Patent No. 6,037,721; Katyl et al., Patent No. 6,107,756; Luchaco, Patent No. 6,528,957; Murcko et al., Patent No. 6,218,787.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 6:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MinSun Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

hp

Haissa Philogene  
Primary Examiner  
A.U. 2828  
*Haissa Philogene*

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